IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

OP.No. 1164 of 2001(L)

PETITIONER:

D. LASITHA,
KATTAKKALIL VEEDU,
PULLAYIL.P.O.,
KILIMANOOR,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.ELVIN PETER P.J.

RESPONDENTS:
----

1. **THE DEPUTY DIRECTOR OF EDUCATION,**
   THIRUVANANTHAPURAM.

2. **THE DISTRICT EDUCATIONAL OFFICER,**
   ATTINGAL, THIRUVANANTHAPURAM DISTRICT.

3. **THE MANAGER, MULAVANA HIGHER SECONDARY SCHOOL,**
   ANAKUDY.P.O., VIA. VAMANAPURAM,
   THIRUVANANTHAPURAM DISTRICT.

4. **S.R. MINI,**
   M.S. COTTAGE, MELATTUMOOZHI,
   KARIMKUTTYKARA.P.O.,
   VAMANAPURAM,
   THIRUVANANTHAPURAM DIST.

BY ADV. SRI.C.KHALID,
SRI.N.GOPINATHA PANICKER,
SRI.R.O.MUHAMED SHEMEEM,
SRI.T.P.SAJID,
GOVT. PELADER SMT. SMITHA SUKUMAR.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 04/09/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

prv.

ORDER ON C.M.P. NO. 1944/2001 IN O.P. NO. 1164/2001-L

DISMISSED

04/09/2007. **SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER DTD. 05/01/87 ISSUED BY THE R.2.

EXT.P.2: COPY OF THE LETTER DT. 02/06/93 GIVEN BY THE PETITIONER TO THE MANAGER.

EXT.P.3: COPY OF THE CIRCULAR DTD. 06/01/1997 ISSUED BY THE D.P.I.

EXT.P.4: COPY OF THE ORDER DT. 19/07/97 ISSUED BY THE R.1.

EXT.P.5: COPY OF THE ORDER DT. 16/06/99 ISSUED BY THE R.2.

EXT.P.6: COPY OF THE ORDER NO. B4-22867/99/K. DIS. DT. 24/10/2000 ISSUED BY THE R.1.

EXT.P.7: COPY OF THE RELEVANT PAGES OF THE PASSPORT OF THE PETITIONER.

RESPONDENT'S EXHIBITS:

EXT.R3.1: COPY OF THE APPOINTMENT ORDER DTD. 10/10/1994.

EXT.R3.2: COPY OF THE COVERING LETTER DD. 10/10/1994.

EXT.R3.3: COPY OF THE COVER CONTAINING THE ABOVE ENDORSEMENT.

EXT.R3.4: COPY OF THE LETTER DTD. 24/10/1994 TO THE PETITIONER.

EXT.R3.5: COPY OF THE COVER CONTAINING THE ABOVE ENDORSEMENT.

//TRUE COPY//

prv.

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.1164 OF 2001

Dated this the 4th day of September, 2007

JUDGMENT

Learned Government Pleader appears for respondents 1 and 2.

2. This writ petition is filed in 2001. The petitioner challenges Ext.P6 decision of the Deputy Director rejecting her claim on the basis of Rule 51 A of Chapter XIV A KER, for placement. Ext.P6 is a speaking order.

3. I have heard learned counsel for the petitioner and learned counsel for the third respondent quite in extenso on the merits of the matter. But during the course of hearing, it has been noticed that notice of this writ petition has not been served on the 4th respondent, the rival teacher.

4. Having regard to the disputed issues of facts raised, including the questions whether the petitioner had submitted a

relinquishment letter; whether the petitioner could have relinquished any right referable to Rule 51 A, Chapter XIV A, KER going by the decisions of this Court; whether the petitioner, who admittedly left the service on an alleged relinquishment, had a right to come back after the 4th respondent's appointment; whether the 4th respondent was appointed with notice to the petitioner in terms of Note 2 to Rule 51 A Chapter XIV A KER as contended by the Manager and still further, as to how the rights of parties have to be determined in terms of the KER, need to be resolved to give a quietus to this litigation.

5. In the aforesaid context, I do not deem it appropriate to overrule the contention of the third respondent Manager that the petitioner has a statutory remedy against Ext.P6 by way of a revision under Rule 92 of Chapter XIV A KER, particularly when the Government is the highest authority and when the statutory framework would have the appropriate mechanism to consider the rival contentions as raised, after hearing the 4th respondent Smt.Mini also, if deems necessary.

6. In the aforesaid circumstances, though this writ petition had been pending for nearly six years now, I am constrained to dispose it off by relegating the parties to the Government in the event of the petitioner filing a revision under Rule 92 as aforesaid, within a period of one month from now. If such revision is received, the Government will endeavour to dispose of the matter finally after hearing the necessary parties, including the petitioner, the Manager and Smt.Mini, if needed, as also any other teacher, if necessary. Such decision shall be taken within an outer limit of six months from the date of receipt of the aforesaid revision or a certified copy of this judgment, whichever is later.

The writ petition is disposed of with the above directions.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

==========

THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.1164 OF 2001

JUDGMENT

4th SEPTEMBER, 2007.

==========